IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No.45 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PIR SHRI KHATIJABIBI, SINCE DIED,THRO' LEGAL HEIRS & REP.

Versus

TUSHARKANT VASANJI

Appearance:

MR PV HATHI for Appellant Nos.1-1/2

MR YS MANKAD for Respondent No. 1

..... for Respondent No. 2-3

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 27/09/2002

ORAL JUDGEMENT

This appeal arises out of the suit filed by the appellants for injunction to restrain the respondent defendant from opening windows in the wall of his house and creating new rights. The appellants have lost before both the courts below. It is stated at the bar by the learned counsel for both the parties that the respondent's house has been totally destroyed in the earthquake. The learned counsel for the appellants, therefore, states that the cause of action does not survive and the appeal has become infructuous. The appeal is, therefore, dismissed with no order as to costs. Sd/-

[M.C.PATEL, J]

'Bhavesh'